

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jennifer Smith	Team: Squad #7	CCRB Case #: 201803080	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/28/2017 8:00 AM	Location of Incident: Outside of 3220 Arlington Avenue	Precinct: 50	18 Mo. SOL 5/28/2019	EO SOL 5/28/2019	
Date/Time CV Reported Wed, 04/11/2018 2:47 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 04/20/2018 2:47 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Edward Caceres	03179	941482	050 PCT
2. SGT Peter Deak	00792	920195	050 PCT
3. LT John Trotta	00000	898663	050 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Edward Caceres	Abuse: Sergeant Edward Caceres questioned § 87(2)(b)	
B.SGT Peter Deak	Abuse: Sergeant Peter Deak questioned § 87(2)(b)	
C.LT John Trotta	Abuse: Lieutenant John Trotta took photographs of § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On April 11, 2018, § 87(2)(b) filed this complaint in-person at the CCRB.

On November 28, 2017, Lieutenant John Trotta of the 50th Precinct ordered Sergeant Edward Caceres and Sergeant Peter Deak, of that same command, to take photographs of § 87(2)(b). Sgt. Caceres and Sgt. Deak subsequently went to find § 87(2)(b) and observed him outside of 3220 Arlington Avenue in the Bronx, where he was collecting bottles. Sgt. Caceres allegedly questioned § 87(2)(b) about his mental health (**Allegations A and B: Abuse of Authority**, § 87(2)(g) and Sgt. Deak took photographs of him as ordered by Lt. Trotta (**Allegation C: Abuse of Authority**, § 87(2)(g)). No arrest or summons as a result from this incident.

§ 87(2)(g)

There is no video evidence in this case.

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant Edward Caceres questioned § 87(2)(b)

Allegation B – Abuse of Authority: Sergeant Peter Deak questioned § 87(2)(b)

Allegation C - Abuse of Authority: Lieutenant John Trotta took photographs of § 87(2)(b)

It is undisputed that Lt. Trotta ordered Sgt. Deak and Sgt. Caceres to canvass for § 87(2)(b) and to take a photograph of him, and that Sgt. Deak and Sgt. Caceres followed this order. § 87(2)(b) (01 Board Review; 02 Board Review) said that Sgt. Deak and Sgt. Caceres approached him and asked to speak with him. § 87(2)(b) agreed, and Sgt. Caceres asked § 87(2)(b) when he was last at his house. Sgt. Deak asked him why he was filing complaints against so many officers of the 50th Precinct. § 87(2)(b) told the officers that he would stop filing complaints when officers provided him with the help he needed regarding his neighbors. Sgt. Caceres told § 87(2)(b) that he went to § 87(2)(b)'s house in the past and never found any evidence to substantiate § 87(2)(b)'s claims against his neighbors. § 87(2)(b) told Sgt. Caceres that officers of the 50th Precinct could substantiate his claims if an officer were to dress up as § 87(2)(b) because his neighbors do not spray chemicals when officers are at his house. Sgt. Caceres asked § 87(2)(b) if he was taking any medication. § 87(2)(b) said he was not taking any medication and that he had been evaluated by psychiatrists approximately six times. Sgt. Caceres asked § 87(2)(b) when his last psychiatric evaluation was, and § 87(2)(b) answered that question. Shortly after, Sgt. Deak pointed his cellphone at him and took his photograph. § 87(2)(b) immediately asked Sgt. Deak to delete the photograph. Sgt. Deak agreed to do so, but § 87(2)(b) never saw him do it. The officers immediately left the scene.

Lt. Trotta (03 Board Review) said § 87(2)(b) who Lt. Trotta never met in-person, sent Lt. Trotta many emails complaining about the 50th Precinct's handling of his allegations against his neighbors, which involve his neighbors spraying chemicals around his property. Additionally, Lt. Trotta investigated approximately 30 complaints that § 87(2)(b) filed with his command over the course of five years. Lt. Trotta believed § 87(2)(b) was emotionally disturbed and had sent NYC Well, LifeNet, and Visiting Nurse Services to check on § 87(2)(b) over the past five years. Those agencies said § 87(2)(b) was "fine," but according to Lt. Trotta, those agencies failed to effectively help § 87(2)(b). So, Lt. Trotta invited § 87(2)(b) to come to the 50th Precinct stationhouse to work out a solution to his ongoing issues with his neighbors and 50th

Precinct officers. § 87(2)(b) never replied to Lt. Trotta's email, but Lt. Trotta learned that § 87(2)(b) had gone to the stationhouse at some point to speak with him and Lt. Trotta was not notified at that time. Lt. Trotta wanted a photograph of § 87(2)(b) so that if § 87(2)(b) returned to the stationhouse, Lt. Trotta would recognize him and finally speak to him in-person.

Sgt. Caceres (04 Board Review) said when Lt. Trotta ordered he and Sgt. Deak to take the photographs of § 87(2)(b) Sgt. Caceres was already familiar with § 87(2)(b) because he had investigated approximately eight complaints that § 87(2)(b) filed regarding his neighbors poisoning him, and planting pods in his lawn. Sgt. Caceres and Sgt. Deak first drove to a Starbucks that § 87(2)(b) frequented in his neighborhood. § 87(2)(b) was not at the Starbucks, but the officers observed him on the street nearby. Sgt. Caceres and Sgt. Deak exited their vehicle and approached § 87(2)(b) Sgt. Deak was the only officer who spoke to § 87(2)(b) and that conversation was regarding § 87(2)(b)'s complaint against PO Juan Ventura of the 50th Precinct, whom Sgt. Deak was personally acquainted with. Sgt. Caceres denied ever asking § 87(2)(b) what medication he took and when his last psychiatric evaluation was. The entire interaction with § 87(2)(b) lasted approximately five minutes. Sgt. Caceres did not recall if § 87(2)(b) made any comments regarding the photograph that Sgt. Deak took of him. Sgt. Caceres believed taking a photograph of a civilian is the equivalent to wearing a body-worn camera.

Sgt. Deak (05 Board Review) said that before taking two photographs of § 87(2)(b) (14 Board Review), Sgt. Deak asked § 87(2)(b) about a CCRB complaint he made against PO Ventura, § 87(2)(b). Although Lt. Trotta did not order Sgt. Deak to ask § 87(2)(b) about that complaint, Sgt. Deak asked § 87(2)(b) about it because he wanted to investigate § 87(2)(b)'s allegation § 87(2)(b).

§ 87(2)(b) Sgt. Deak denied hearing Sgt. Caceres ask § 87(2)(b) any questions about his mental health. Sgt. Deak acknowledged that § 87(2)(b) requested that Sgt. Deak delete the photograph that he took of him, and Sgt. Deak acknowledging not deleting the photograph.

People v. De Bour, 40 NY 2d 210 (1976) states that officers must have founded suspicion that criminality is afoot to ask accusatory questions of an individual. Officers must have an objective credible reason in order to ask non-accusatory questions to an individual (11 Board Review).

NYPD Operations Order #20 (06 Board Review) states that members of the service are prohibited from using department smartphones to photograph encounters not directly related to official activities in the proper performance of police duties, performance of non-enforcement functions or administrative duties within a department facility, places where a reasonable expectation of privacy exists, a potential witness who requests to speak to an officer confidentially or desires anonymity, a victim or witness who requests that he or she not be recorded, a victim who requests that he or she not be recorded as a condition of cooperation, and access or entry to any premises to be searched pursuant to a warrant.

§ 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(4-b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED] has been party to 18 CCRB complaints and has been named as a victim in 10 allegations (08 Board Review).
 - § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- Lt. Trotta has been a member-of-service for 27 years and has been a subject in five CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED]
- Sgt. Caceres has been a member-of-service for 12 years and has been a subject in four CCRB complaints and eight allegations, of which two were substantiated:
 - Case 201214873 involved substantiated allegations of physical force and discourtesy (word) against Sgt. Caceres. The Board recommended charges and Sgt. Caceres was found not guilty at trial.

- Sgt. Deak has been a member-of-service for 20 years and this is the first CCRB complaint to which he has been a subject.

Squad No.: 14